IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.
SUMMARY SUIT NO.3403 OF 2001

Anand B. Castelino ..Plaintiff.
Vs.
M/s.Kerala Soaps and Oils Limited ..Defendant.

....

Mr. T. Rajaram Mohan Roy for the Plaintiff.
None for the Defendant.

....

CORAM: **DR. D.Y. CHANDRACHUD, J.**
30th April, 2007.

P.C. :

1. The claim of the Summary Suit which has been instituted under Order 37 of the Code of Civil Procedure 1908 arises out of goods sold, supplied and delivered by the Plaintiff to the Defendant. The goods were supplied under four invoices dated 30th April, 1998, 18th June, 1998, 29th September, 1998 and 16th January, 1999. The delivery challans are annexed at Exh. B-1 to B-4. The total amount due was Rs.1,21,344/-. In response to a letter of demand dated 15th May, 1999 the Defendant on 22nd June, 1999 stated that its financial department required regular invoices and not proforma invoices in

order to release payments. Accordingly on 28th June, 1999 the Plaintiff forwarded its bills for payment and sought the payment of its dues. In response to a letter dated 19th June 2001 the Defendant by a letter dated 18th July, 2001 pleaded for time on the ground of its financial difficulties. No payment has been made thereafter.

2. The Defendant has not entered appearance despite service of the writ of summons. An affidavit of service has been filed. A compilation of the original documents has also been filed on the basis of which the claim is established. The claim in the suit falls within the purview of Order 37 of the Code of Civil Procedure. The suit is accordingly decreed as prayed subject to the modification that the Plaintiff will be entitled to interest at the rate of 9% per annum from the date of the institution of the suit until the date of the decree and at the same rate from the date of the decree until payment or realization.

Refund of Court Fess, if any, as per rules.